

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1, 3-10, 12, 13, and 15-18 are presently active in this case, Claims 1 and 5-7 having been amended, Claims 2, 11, and 14 having been canceled without prejudice or disclaimer, and Claims 16-18 having been added by way of the present Amendment.

Care has been taken such that no new matter has been entered. Support for the claim amendments are clearly provided in the originally filed specification including the drawings, written description, and original claims.

In the outstanding Official Action, the drawings were objected to under 37 CFR 1.83(a). Claim has been canceled, thereby rendering this objection moot. Accordingly, the Applicant requests the withdrawal of the objection to the drawings.

Claims 1-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Becker (U.S. Patent No. 6,297,482) in view of Vilato et al. (U.S. Patent No. 6,120,282). For the reasons discussed below, the Applicant respectfully requests the withdrawal of the obviousness rejection.

The basic requirements for establishing a *prima facie* case of obviousness as set forth in MPEP 2143 include (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, (2) there must be a reasonable expectation of success, and (3) the reference (or references when combined) must teach or

suggest all of the claim limitations. The Applicant submits that a *prima facie* case of obviousness cannot be established in the present case because there is no suggestion or motivation to combine the references in the manner suggested in the Official Action.

Claim 1 of the present application recites a glass-ceramic plate comprising at least one opening located within a bent portion of the plate. An outer peripheral edge around the opening is bent upwards. The opening is defined as being at a location other than a heating area, and the opening is a suction hood opening configured for use with a suction hood for allowing for the extraction of cooking gases.

The Becker reference describes a kitchen cooking arrangement (2) that includes a countertop (5) having an upper surface (7). The kitchen cooking arrangement (2) also incorporates a cooktop (15) that includes a main plate portion (18) which is secured upon upper surface (7) of countertop (5). The main plate portion (18) includes a downdraft venting arrangement including a grill (36) which, as shown, extends fore-to-aft from frontal section (21) to rear section (22). The cooktop (15) also includes a face plate portion (38) that defines a heating element control panel.

The Official Action cites the opening around grill (36) for the teaching of the opening of Claim 1 of the present application. The Official Action notes that the Becker reference does not disclose a bent upward portion formed around the opening around the grill (36). The Official Action cites the Vilato et al. reference for the teaching of openings (6, 6'). However, the Applicant submits that there was no motivation to use the openings (6, 6') of the Vilato et al. reference in place of the opening for the grill (36) of the Becker reference.

The Vilato et al. reference describes a glass-ceramic plate that has an opening that is intended to house an atmospheric gas burner. (See Abstract and Field of the Invention section.) The openings (6, 6') have a raised polished edge that can prevent a dangerous situation in which liquids on the surface of the plate from flowing through the opening and infiltrating electrical devices such as radiant or halogen heating elements in combination type cookers. (See column 1, lines 35-41.) The Vilato et al. reference describes and depicts the use of such openings as being intended to house an atmospheric gas burner, and also does suggest its use to house the spindle of a control knob of a heating element, presumably to prevent the dangerous situation discussed above. However, the Vilato et al. reference does not mention or even suggest provide such an opening for a suction hood opening, as recited in Claim 1 of the present application. In fact, the Vilato reference does not mention any type of exhaust hood, or any type of opening for a suction hood in the ceramic-glass plate described therein.

Thus, the Applicant submits that one of ordinary skill in the art would not have been motivated to combine the teachings of the Vitalo et al. reference with the Becker reference. The Becker reference teaches a ceramic-based cooktop that does not include atmospheric gas burners, and therefore obviously does not include openings for such burners. Furthermore, as mentioned above, there is no motivation in the Vitalo et al. reference to include an opening as described therein for the grill opening of the Becker reference, and the grill opening does not pose the same dangerous problem with regard to liquid getting in the grill. Thus, one of

ordinary skill in the art would not have been motivated to make the suggested combination absent hindsight.

The Applicant, therefore, respectfully submits that the rejection is based on the improper application of hindsight considerations. It is well settled that it is impermissible simply to engage in hindsight reconstruction of the claimed invention, using Applicant's structure as a template and selecting elements from the references to fill in the gaps. *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991). Recognizing, after the fact, that a modification of the prior art would provide an improvement or advantage, without suggestion thereof by the prior art, rather than dictating a conclusion of obviousness, is an indication of improper application of hindsight considerations. Simplicity and hindsight are not proper criteria for resolving obviousness. *In re Warner*, 397 F.2d 1011, 154 USPQ 173 (CCPA 1967).

Accordingly, the Applicant respectfully requests the withdrawal of the obviousness rejection of Claim 1. The Applicant further submits that the claims that depend from Claim 1 are allowable for at least the reasons set forth above with respect to Claim 1.

With regard to Claim 5, the Applicant respectfully submit that neither of the cited references, either when taken singularly or in combination, teach or suggest an opening that has a polygonal shape, as recited therein. Therefore, the Applicant submits that a *prima facie* case of obviousness has not been established with respect to Claim 5. The Applicant notes that the Vitalo et al. reference depicts round openings, and the Becker reference depicts an elongated oval opening for the grill (36). Accordingly, the Applicant respectfully requests

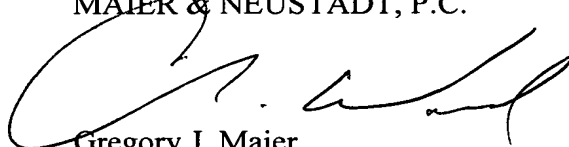
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the withdrawal of the obviousness rejection of Claim 5 or the citation of a combinable reference that teaches such a feature.

Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully Submitted,

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A handwritten signature in black ink, appearing to read 'G. Maier', is written over the printed name of Gregory J. Maier.

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